

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DELAWARE MARKETING : CA No. 04-263  
PARTNERS, LLC, a Delaware :  
limited liability company, :  
Plaintiff : JUDGE MCLAUGHLIN AND  
v. : MAGISTRATE JUDGE  
SUSAN PARADISE BAXTER  
CREDITRON FINANCIAL :  
SERVICES, INC., a :  
Pennsylvania corporation :  
and, TELATRON MARKETING :  
GROUP, INC., a :  
Pennsylvania corporation, :  
Defendants :

Deposition of KATHERINE LOMBARDOZZI, taken before  
and by Sonya Hoffman, Notary Public in and for the  
Commonwealth of Pennsylvania on Monday, November  
13, 2006, commencing at 3:24 p.m., at the offices of  
Elderkin Martin Kelly & Messina, 150 East Eighth  
Street, Erie, PA 16501.

For the Plaintiff:

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Charles Snyderman, PA  
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For the Defendants:

Craig A. Markham, Esquire  
Elderkin Martin Kelly & Messina  
150 East Eighth Street  
Erie, PA 16501

Reported by Sonya Hoffman  
Ferguson & Holdnack Reporting, Inc.

1 A. No.

2 Q. Is it your testimony that that does not happen or  
3 you're just not aware of it?

4 A. Creditron Financial Services, they pay their own  
5 expenses.

6 Q. So Creditron Financial Services, Inc. has a  
7 separate set of financial books and records than the  
8 Telatron Group that you're employed by.

9 A. Correct.

10 Q. Do you know whether Telatron Marketing Group has  
11 ever issued checks to pay for expenses incurred by ALC?

12 A. I'm sorry, I just lost you there. Ask me again.

13 Q. Let me ask it a different way. If your employer,  
14 Telatron, were to issue checks to pay for expenses incurred  
15 by Academic Lending Center, would you, in your capacity as  
16 vice president of the financial control group, know about  
17 it?

18 A. Yes.

19 Q. Okay. Has that happened?

20 A. Yes.

21 Q. All right. In your years of experience -- or let  
22 me back up, because I don't think I asked you. Is it true  
23 that Academic Lending Center is a division of Creditron  
24 Financial Services, Inc.?

25 A. Yes.

1 Q. And Academic Lending Center is not a division of  
2 Telatron Marketing Group, Inc.?

3 A. No.

4 Q. And in all of your years of experience, have you  
5 ever, before joining Telatron, have you ever seen a  
6 situation where a company, like Telatron, would issue checks  
7 to pay expenses of a division of a totally separate entity  
8 like Creditron?

9 A. No.

10 Q. Can you explain to me how that happens with  
11 Telatron.

12 A. Specifically, no, I cannot.

13 Q. All right. As vice president of the financial  
14 control group of Telatron, have you ever spoken with Mr.  
15 Covatto about the propriety of Telatron paying bills of the  
16 Academic Lending Center?

17 A. Propriety, no.

18 Q. Have you ever discussed it with him at all?

19 A. Well, he tells me to pay the bill, I pay it. He  
20 tells me to wire-transfer money, I wire-transfer money.

21 Q. All right. So let me ask you: I take it that  
22 you've read the papers and you're familiar with accounting  
23 firms -- large accounting firms that have gotten into a lot  
24 of trouble with the Government for want of a better term  
25 , "cooking the books." You've heard that, right?

1 A. Yes.

2 Q. All right. Do you see your job as the vice  
3 president in charge of the financial control group of  
4 Telatron as being responsible to make sure that your  
5 company's financial books and records are handled properly?

6 A. Yes.

7 Q. All right. And as a part of that responsibility  
8 that you recognize, does it concern you that you're being  
9 directed by Mr. Covatto to write checks out of Telatron's  
10 money to pay for expenses that were incurred by Academic  
11 Lending Center?

12 A. Yes.

13 Q. All right. And when it concerns you like that,  
14 you recognize that there could be repercussions for doing  
15 something like that, correct?

16 A. Yes.

17 Q. And what do you do about it to avoid those  
18 repercussions? Do you, for example, keep documentation to  
19 cover yourself, that on such a such date I was directed from  
20 Mr. Covatto to write a check out of Telatron or wire funds  
21 out of Telatron to cover an expense of ALC?

22 A. Everything is documented.

23 Q. All right. And where is that documentation?

24 A. It's at Telatron.

25 Q. And it's within your control?

1 A. Yes.

2 Q. All right. Now, have you spoken with anybody  
3 who's employed by Telatron, other than Mr. Covatto, about  
4 the situation that we just discussed with you being directed  
5 by Mr. Covatto to spend Telatron money for expenses of ALC?

6 A. Mark's aware of it.

7 Q. All right. Are you married?

8 A. No.

9 Q. Have you told any family members about your  
10 concerns?

11 A. No.

12 Q. Have you told anybody else besides Mark?

13 A. No.

14 Q. All right. Have you spoken to Joyce Covatto about  
15 it?

16 A. No.

17 Q. So Mark and Mr. Covatto are the only two  
18 individuals that you've spoken to about this?

19 A. Yes.

20 Q. And what did Mark say when you spoke to him about  
21 it?

22 A. Nothing. Pretty much what I say, we do what we're  
23 told.

24 Q. All right. Did you ever tell Mr. Covatto that you  
25 felt uncomfortable doing it?

1 A. No.

2 Q. Do you feel uncomfortable doing it?

3 A. No. I can't -- I really can't explain how the  
4 books are all -- they're tied in to each other. The  
5 companies are all tied in together. It's not like Wal-Mart  
6 and Kmart, two separately completely different companies.

7 Q. But there are separate bank accounts, correct?

8 A. Correct.

9 Q. So when you say everything is documented, would I  
10 be right in assuming that whenever Telatron pays an expense  
11 that was incurred by ALC, that not only is that documented,  
12 but at any given time you could look at your records and see  
13 how much that was?

14 A. Correct.

15 Q. Does Creditron or ALC ever reimburse, or pay back,  
16 to Telatron the funds which Telatron paid out on behalf of  
17 ALC?

18 A. They do.

19 Q. Okay. And there's a running balance as to how  
20 much is owed at any given time?

21 A. Yes, there is.

22 Q. All right. Now, when Telatron -- you, issue a  
23 payment, either wire or a check, on behalf of ALC, you  
24 designate it in some way that you know it was for ALC,  
25 correct?

1 A. Correct.

2 Q. And if it were for the collections part of  
3 Creditron, would you make a note of that as well?

4 A. Yes.

5 Q. So, at any given time, you knew exactly what funds  
6 were spent, so to speak, in the ledger column of ALC versus  
7 the collection division.

8 A. Right.

9 Q. Do you know -- you worked there in 2002,  
10 obviously, and 2003 and 2004, can you give me even a  
11 ballpark estimate of how much was owed at any given time.  
12 Either a range or the highest amount, by ALC back to  
13 Telatron for payments that Telatron had made.

14 A. No, I can't.

15 Q. All right. Are we talking about a couple of  
16 hundred dollars, or a few thousand, or hundreds of  
17 thousands? You must have some idea.

18 A. I would say thousands.

19 Q. All right. And when ALC would pay the money back,  
20 would it be a wire transfer, or a bank transfer, or would  
21 there be a check issued? How did that happen?

22 A. It could be any of those.

23 Q. And did ALC have its own checkbook as opposed to  
24 Creditron Financial Services, Inc.?

25 A. Yes, they do.

1 Q. All right. When Creditron -- I'm sorry. When ALC  
2 would repay to Telatron money which it owed to Telatron, did  
3 it pay that money back with interest?

4 A. No, I don't believe so.

5 Q. Were these balances carried on the books of  
6 Telatron as loans?

7 A. Yes, they were.

8 Q. When Mr. Covatto would direct you, for example, to  
9 pay out money from Telatron on behalf of ALC, did anybody at  
10 ALC give Telatron a promissory note for that money?

11 A. I don't think there was anything actually in  
12 writing. It was just understood and it was on the books.

13 Q. Can you recall in the 2002-to-2004 time period  
14 what the usual turn-around time was for a repayment of money  
15 from ALC to Telatron?

16 A. It was usually within a couple of weeks.

17 Q. All right. So let me ask you this: You were  
18 aware that back in 2002 and 2003 that ALC and Creditron were  
19 working with a company called Delaware Marketing for the  
20 student loan consolidations.

21 A. Vaguely.

22 Q. Are you familiar with the name Brazos?

23 A. Yes.

24 Q. And you're aware that Brazos wired funds from time  
25 to time to Creditron Financial Services, Inc.?



1 A. Yes.

2 Q. I want to make sure I understood an answer before.  
3 Does ALC have a separate -- in the years 2002, 2003, and  
4 2004, did ALC have a separate bank account from Creditron  
5 Financial Services, Inc.?

6 A. Yes.

7 Q. When funds were wired by Brazos, whose account --  
8 whose bank account did the funds get wired into?

9 A. Creditron Financial Services.

10 Q. Not the bank account that ALC had?

11 A. Right.

12 Q. So let's just take for example, hypothetically, a  
13 wire comes from Brazos in October of 2002, and let's say  
14 it's a \$1,000 wire, even, okay?

15 A. Okay.

16 Q. And it shows up in the bank account of Creditron  
17 Financial Services, Inc., right? Are you with me so far?

18 A. Right.

19 Q. Was it your responsibility or Mark Kisiel's  
20 responsibility to keep track of that \$1,000 wire that had  
21 come in?

22 A. Mine, usually.

23 Q. All right. Now, let's track this. Help me track  
24 this. Money comes in on a day in October of 2002 -- this is  
25 hypothetically now -- from Brazos to the bank account of

1 Creditron Financial Services, Inc., what happens to that  
2 money? How is it kept track of and how is that money spent?

3 In other words -- I think this is a two-part  
4 question for you and it's not fair. Are there certain  
5 guidelines that you were required to follow back in that  
6 2002, 2003 period of time as to restrictions on how that  
7 money could be spent or what it could be spent on?

8 A. No. When the money came in, we were -- I was told  
9 to inform Mr. Covatto that it came in.

10 Q. And after you informed him that it came in, what  
11 would he do next? He now knows it came in.

12 A. Then that was up to him how he disbursed it,  
13 whether he left it there or whether he used it to transfer  
14 to other accounts.

15 Q. All right. And those other accounts could be  
16 Telatron?

17 A. Telatron or ALC, if necessary.

18 Q. Any other accounts that you're aware of besides  
19 the Telatron account, the Creditron account, and the ALC  
20 account?

21 A. That's it.

22 Q. All right. Now, in the same way that you've  
23 explained, pretty clearly, the documentation that you kept  
24 when funds of Telatron were spent on expenses of ALC or  
25 Creditron, did it work the other way?

1 In other words, when money came in, say, from  
2 Brazos to Creditron and then you were directed by, say,  
3 Mr. Covatto to spend that money in a certain way, did you  
4 keep track of how it was spent?

5 A. Yes.

6 Q. Now, am I correct that the same bank account that  
7 the Brazos money came into also received funds from other  
8 entities besides Brazos?

9 A. That particular account, not usually.

10 Q. All right. So if the thousand dollars, which is  
11 deposited into the account of Creditron from Brazos, gets  
12 spent, how did you document what it was spent for?

13 A. We recorded it in our cashbook.

14 Q. What's a cashbook?

15 A. Just a written documentation or on a computer.

16 Q. All right. And if it was spent, for example, for  
17 a Telatron expense, would Telatron, according to your  
18 recordkeeping, owe Creditron the money and eventually pay it  
19 back?

20 A. Yes.

21 Q. And to your knowledge, was all of the money that  
22 Creditron spent on Telatron stuff paid back by Telatron to  
23 Creditron?

24 A. Yes.

25 Q. Now, do you remember the Federal tax liens

1 that?

2 A. No.

3 Q. And what bank account did the funds come from that  
4 you wired to Delaware Marketing Group?

5 A. Telatron Marketing Group.

6 Q. And were you aware, when you wired those funds  
7 from Telatron Marketing Group, that this was money owed to  
8 Delaware Marketing Group by anybody other than Telatron?

9 A. No.

10 Q. All right. So would it be fair to say that when  
11 Telatron -- I'm sorry, you, on behalf of Telatron, your  
12 employer, wired funds to Delaware Marketing Group, you  
13 didn't make a special entry indicating that this was an  
14 expense for like Creditron Financial Services. Which  
15 Creditron Financial Services would then have to repay to  
16 Telatron like those other expenses we talked about?

17 A. No.

18 Q. Now, based on your experience and background, if I  
19 were to ask you to assume that the funds that you wired to  
20 Delaware Marketing Group were monies that were owed by  
21 Creditron Financial Services, Inc., would that cause you any  
22 concern?

23 MR. MARKHAM: Let me object to the question.

24 You're asking her for an opinion on hypothetical  
25 facts and she's not an expert witness here. It

1 isn't appropriate to ask her opinion questions.

2 MR. SNYDERMAN: Do we allow talking objections in  
3 Erie?

4 MR. MARKHAM: Sure we do.

5 MR. SNYDERMAN: Okay. You can answer the  
6 question.

7 MR. MARKHAM: Well, I'm not sure she can answer  
8 the question. She's --

9 MR. SNYDERMAN: Why don't we ask her.

10 MR. MARKHAM: No. I'm not sure I'm going to  
11 permit her to answer the question. You're asking  
12 her an opinion question, she's not an expert  
13 witness. She's here to --

14 MR. SNYDERMAN: Fine. Let's get Judge Baxter on  
15 the phone. Can we do that?

16 MR. MARKHAM: If you want.

17 MR. SNYDERMAN: I want, because you're not going  
18 to get away with instructing people not to answer.

19 MR. MARKHAM: Call her.

20 (Recess taken from 4:01 p.m. to 4:15 p.m.)

21 THE COURT: Thank you. All right. There's an  
22 objection by the defense to a question explaining  
23 both that it was irrelevant and that it was asking  
24 for an expert opinion by nonexpert. I'm going to  
25 overrule the objection on both grounds and allow

1 the question. All right. Anything else?

2 MR. SNYDERMAN: No, Your Honor.

3 THE COURT: Let me know if you have any other  
4 problems.

5 MR. SNYDERMAN: Thank you, Your Honor.

6 MR. MARKHAM: Thank you, Your Honor.

7 BY MR. SNYDERMAN:

8 Q. We're back on the record. I'd like to make a  
9 statement. Before we went off the record, I asked you to  
10 step out, Mr. Markham had raised an objection to one of my  
11 questions and had instructed you not to answer.

12 We just had a telephone conference with the Judge  
13 and she overruled Mr. Markham's objection and is saying that  
14 you need to answer the question. So we're going to have the  
15 court reporter read back the question to you and see if you  
16 can answer it for me.

17 A. Okay.

18 (Previous question read back.)

19 Q. And I know you were out for a while, I believe the  
20 context of the question -- we can read back past questions  
21 so you know where we are; the context was we were talking  
22 about --

23 MR. SNYDERMAN: Well, in fact, rather than doing  
24 that, can you go back to, say, three questions  
25 before that one. That's only fair to the witness.

1 (Previous questions read back.)

2 A. Okay. The best way I can answer that, after all  
3 that, when I was making the wire transfers out of Telatron  
4 to Delaware, okay, I would record the transactions. And  
5 like I said, Mark was also involved in the cash  
6 transactions. He would in turn account for these  
7 transaction on the books. He was aware that the recording  
8 would have to be made to Creditron Financial.

9 Q. And how is he aware of that?

10 A. He knew.

11 Q. How do you know that?

12 A. He and I spoke about it.

13 Q. Okay. Were you aware? Because I believe your  
14 testimony was no.

15 A. No, I was not.

16 Q. Well, if you weren't aware, had you talked about  
17 it, wouldn't you be testifying today that you were aware?

18 A. No.

19 Q. What was it that you talked about, specifically,  
20 that leads you to believe that he was aware?

21 A. I just told him that I made a transfer to  
22 Delaware.

23 Q. All right. And did you tell him who you made --  
24 what account it came from?

25 A. No.

1 Q. All right. How would he know what account it came  
2 from?

3 A. He just looked at it.

4 Q. How do you know he looked at it?

5 A. I assumed.

6 Q. So you don't know he looked at it.

7 A. No.

8 Q. And since you don't know that he looked at it, you  
9 don't know that he actually accounted for it.

10 A. No.

11 Q. Let's get back to the question I asked before. If  
12 Telatron wired funds to Delaware Marketing Group, and if  
13 that was a payment that really was owed by Creditron, there  
14 should have been documentation of that, correct?

15 A. Correct.

16 Q. Okay. And if there were not documentation of  
17 that, would that concern you in your position as vice  
18 president of the financial control group?

19 A. Yes.

20 Q. And why would it concern you?

21 A. It wouldn't be ethical. It wouldn't be correct.

22 Q. All right.

23 A. But, by putting it down in the cashbook, that's  
24 documentation right there.

25 Q. All right. And you were the one who put it in the



1 cashbook?

2 A. Correct.

3 Q. So there's documentation that funds were spent by  
4 Telatron and sent by you to Delaware?

5 A. Yes.

6 Q. All right. But does that entry alone, without any  
7 more, also create a record that Creditron owes that money to  
8 Telatron?

9 A. That entry, in and of itself, no.

10 Q. All right. So unless Mark or somebody else --  
11 because you didn't do it. Unless Mark or somebody else then  
12 took the next step, and made a record of the fact that that  
13 wire that you had sent was on behalf of Creditron, then the  
14 system that you were talking about that worked in paying  
15 money back and forth would have a problem; wouldn't it?

16 A. Right.

17 Q. Okay.

18 A. I may have done it. I don't remember, you know.

19 Q. Well, why would you have done it if you didn't  
20 know that it was a Creditron expense?

21 MR. MARKHAM: I'm go to object, you're saying that  
22 you're assuming those facts.

23 A. Yeah.

24 Q. Well, you told me before, did you not, that to  
25 your knowledge, when you were told by Mr. Covatto to

1 transfer funds out of Telatron to Delaware Marketing Group,  
2 it was your understanding at the time that that was a  
3 Telatron Marketing Group expense.

4 A. Correct.

5 Q. Right?

6 A. Right.

7 Q. So you would not have made any entry indicating  
8 that Creditron owes money to Telatron, equal to the amount  
9 you wired, because as far as you knew it was a Telatron  
10 expense?

11 A. Right.

12 Q. So unless Mark Kisiel or someone else in your  
13 financial control group knew something that you didn't know,  
14 namely that it was a Creditron expense, Telatron -- I'm  
15 sorry, Creditron would never have paid back Telatron,  
16 because there was no record of it.

17 A. Correct.

18 Q. So what documentation exists -- and can I assume  
19 that the documentation that exists today is that same  
20 documentation that existed back in 2002 and 2003, as opposed  
21 to the system changing?

22 A. Right.

23 Q. Same records?

24 A. Yes.

25 Q. All right. So if you wanted to go back to the

1 office and look at records, what specific records would you  
2 look at at Telatron? At Telatron's books and records? That  
3 would allow you to see what expenses Telatron paid on behalf  
4 of Creditron Financial Services, as opposed to on behalf of  
5 Telatron Marketing Group?

6 A. We'd have the wire-transfer documentation.

7 Q. Okay. That's one.

8 A. And any general ledger journal entries.

9 Q. And are they on paper in a book? Are they on a  
10 computer?

11 A. Both.

12 Q. Are they duplicative when you say they are both?

13 A. Computer and hard copy.

14 Q. Okay. And what is the ledger called?

15 A. General ledger transactions.

16 Q. All right. And if you were going to refer to  
17 specific documents that would allow you to see, at any given  
18 time, how much Telatron had paid on behalf of Creditron,  
19 what would you call that specific paper or document?

20 A. Transaction detail.

21 Q. Anything else?

22 A. Not that I'm aware of.

23 Q. Now, at the same time that you, on behalf of  
24 Telatron, or somebody else in the financial control group  
25 would make an entry, so that there would be a record of the

1 fact that Telatron had just spent money on behalf of another  
2 company, did Creditron Financial Services, Inc., around same  
3 time that Telatron did it, make its own entry in its books  
4 and records that it owed money to Telatron?

5 A. Yes.

6 Q. So there would be records in Telatron's control  
7 that showed we're owed money by Creditron Financial  
8 Services, right?

9 A. Correct.

10 Q. And there would also be a corresponding set of  
11 records, which are part of Creditron Financial Services,  
12 that would say we owe money to Telatron.

13 A. Correct.

14 Q. And what are those records called at Telatron?

15 A. The same.

16 Q. And are those records under your control as vice  
17 president of financial control?

18 A. Yes.

19 Q. Those records, meaning the records of Creditron  
20 Financial Services?

21 A. Yes. They're in financial control, yes.

22 Q. Is it pretty easy to look on the computer and see  
23 what the balance is at any one time?

24 A. Yes.

25 Q. Now, when funds are owed by Telatron to Creditron

1 and Creditron to Telatron, has it been your experience that  
2 money is actually transferred from one account to another  
3 every time, as opposed to offsetting? Do you know what I  
4 mean by that?

5 A. Yes.

6 Q. Tell me what happened.

7 A. Sometimes it is transferred, sometimes it was just  
8 offset.

9 Q. And if it was actually transferred, there would be  
10 documentation of that.

11 A. Right.

12 Q. And if it was offset, there'd be documentation of  
13 that.

14 A. Right.

15 Q. And whose determination was it whether to transfer  
16 the funds or use the offset method?

17 A. That would be Mr. Covatto.

18 Q. Every time?

19 A. Yes.

20 Q. You would never do that on your own?

21 A. No.

22 Q. Now, I understand that Mr. Covatto was a  
23 consultant to Creditron Financial Services.

24 A. Yes.

25 Q. Was he a paid consultant?

1 Q. And when you did it, you had to get instruction  
2 from somebody before you did it?

3 A. No.

4 Q. So you had the authority --

5 A. Correct.

6 Q. -- in your position each week to issue paychecks.

7 A. Right.

8 Q. All right. And do you know who issued the  
9 paychecks to Creditron employees?

10 A. That was also Lana.

11 Q. And did you do that sometimes, too?

12 A. Occasionally.

13 Q. Now, was there ever a time in 2002 or 2003 when it  
14 came time for payroll, for either Creditron Financial  
15 Services, Inc. or Telatron Marketing Group, and there wasn't  
16 sufficient funds in the account to make payroll?

17 A. No.

18 Q. Did the weekly salaries of the employees of ALC  
19 receive their money out of the account of ALC or the bank  
20 account of Creditron Financial Services, Inc.?

21 A. Neither. They were paid out of Telatron.

22 Q. All right. Let me make sure I understand that.  
23 ALC is a division of Creditron Financial Services, Inc.

24 A. Correct.

25 Q. And Telatron Marketing Group is a separate entity

1 from Creditron Financial Services.

2 A. Yes.

3 Q. And I asked you before if Telatron ever paid the  
4 salary of anybody other than employees of Telatron, and I  
5 thought you were saying yes, but then you corrected me and  
6 pointed out that Creditron paid Creditron and Telatron paid  
7 Telatron.

8 A. Right.

9 Q. But now it appears that Telatron Marketing Group,  
10 Inc. did, in fact, pay salaries of employees of ALC, which  
11 was a division of Creditron Financial Services, Inc., right?

12 A. Right.

13 Q. Can you explain to me how it is that a company --  
14 strike that. Who issued the W-2s to the employees of ALC?

15 A. Telatron.

16 Q. And these were not employees of Telatron, correct?

17 A. ALC employees -- or ALC is considered Telatron  
18 employees. They receive Telatron paychecks.

19 Q. So then Telatron has employees which it directs to  
20 provide services to ALC?

21 A. Yes.

22 Q. Does ALC have its own employees that it issues  
23 W-2s?

24 A. No.

25 Q. All right. So if Telatron provides employees to

1 perform services for ALC, a division of Telatron, is there  
2 then some record entry made, like we talked about before,  
3 that Creditron -- I'm sorry, that ALC owes money to Telatron  
4 for having provided employees?

5 A. Yes, I believe there is.

6 Q. And Creditron would eventually send money -- I'm  
7 sorry, ALC would send money out of its own bank account to  
8 Telatron to reimburse Telatron for the payroll of these  
9 employees.

10 A. Correct.

11 Q. Did these employees of Telatron work at times in a  
12 capacity other than for ALC?

13 A. I don't know. I suppose they may have. I don't  
14 know.

15 Q. If a Telatron employee provided services for ALC  
16 part of the time and some other entity part of the time,  
17 there would be a record of that so each beneficiary of that  
18 employee's services would send their share of money back to  
19 Telatron.

20 A. Yes.

21 Q. What was the annual salary of Mr. Covatto in 2002,  
22 2003?

23 A. I don't know off the top of my head.

24 Q. Was it under \$100,000 or more than \$100,000?

25 A. Under.



1 records that were kept in the financial control group. I'm  
2 going to describe a situation and please tell me what  
3 records exist or what you would call those types of records,  
4 if I wanted to see them, what would I ask for, okay?

5 A. Okay.

6 Q. Let's assume that Creditron Financial Services  
7 owes \$1,000 to Delaware Marketing and sends \$500 to Delaware  
8 Marketing. If Creditron kept track of the fact that it only  
9 sent \$500 out of the \$1,000, and there's still \$500 owed,  
10 what would you call those records that would show that?

11 A. General ledger entry, general ledger detail.

12 Q. So, the fact that it's between one of your family  
13 companies and an outsider doesn't cause a separate set of  
14 books as opposed to the family of companies, it's still  
15 general ledger and detail.

16 A. Yes.

17 Q. And there'd be hard copies and computer copies?

18 A. Yes.

19 Q. What computer programs did you use to keep track  
20 of things in financial control?

21 A. Four years ago -- or was it three years ago, it  
22 would have been either Mas90 or Peachtree.

23 Q. What about now?

24 A. We currently have Mas90. Back then it was  
25 Peachtree.

1 for ALC in 2002?

2 A. Establishing, no.

3 Q. Okay. Do you know what the first -- I'm sorry.

4 Do you know where the monies came from that were first  
5 deposited into ALC's bank account?

6 A. I don't remember that initial deposit.

7 Q. If you wanted to go back and look at it, would you  
8 be able to do that?

9 A. Yes.

10 Q. And what records would you look at in order to see  
11 that?

12 A. Cashbook.

13 Q. And would you also be able to use the -- when you  
14 say "cashbook," are you referring to the hard copy and the  
15 computer version?

16 A. Yes, both.

17 Q. If you had this cashbook in front of you right  
18 now, and I said to you, could you tell me what the balance  
19 in the account was on November 12, 2002, would you be able  
20 to do that?

21 A. The hard copy, no, because it would be massive.  
22 We don't keep that, I'd have to go back and find it.

23 Q. How about the computer version?

24 A. I don't know if it went back that far or not on  
25 the system. I can't remember when we first put it on the

1 computer.

2 Q. Would the bank statements for ALC show the balance  
3 in the account at any given time?

4 A. It should.

5 Q. And are those bank statements kept electronically,  
6 as well as hard copy?

7 A. No, I don't believe they were.

8 Q. They're all hard copy?

9 A. Yes.

10 Q. And where are they stored?

11 A. In our fireproof room.

12 Q. In one of the Telatron buildings?

13 A. In one of the buildings, yes.

14 Q. And do you have access to that room?

15 A. Yes.

16 Q. I'm going to ask you just a couple of questions  
17 about the ALC bank account. Is that at Citizen's Bank?

18 A. Yes.

19 Q. Has it always been at Citizen's Bank?

20 A. Yes.

21 Q. Has it always been the same account number?

22 A. Yes.

23 Q. Is it a checking account?

24 A. Yes.

25 Q. Does ALC have any other bank accounts besides that

1 Citizen's Bank checking account?

2 A. No.

3 Q. In the year 2002 and 2003, were the only funds  
4 deposited in that account from Brazos or Telatron Marketing  
5 Group, Inc.?

6 A. I -- I believe so.

7 Q. Now, are you able to tell me whether any funds  
8 that came out of the ALC account were ever paid to anybody  
9 other than Telatron Marketing Group?

10 A. We used that account to pay for postage.

11 Q. Postage?

12 A. For people that sent their -- what do you call it?

13 Q. Applications?

14 A. Applications back in. And then we send their  
15 return postage back, \$5 or \$4.

16 Q. So aside from the postage expense that you just  
17 referred to, did Creditron -- did ALC ever send money by  
18 check or by wire to anyone other than Telatron Marketing  
19 Group, Inc.?

20 A. No.

21 Q. And would the financial control group today have  
22 documentation every time ALC's bank account was debited and  
23 Telatron's account was credited?

24 A. Yes.

25 Q. And who made the decisions as to when funds should

1 be paid out of the ALC bank account?

2 A. For other than the postage?

3 Q. Yes.

4 A. That would have been Mr. Covatto.

5 Q. Anybody else?

6 A. No.

7 Q. And every time he directed you to take money out  
8 of the ALC bank account, you would document that.

9 A. Yes.

10 Q. And when you documented it, other than the fact  
11 that you were taking money out of the account, did you also  
12 document the fact that Mr. Covatto instructed you to do it?

13 A. No.

14 Q. Because you knew that if you did it was because he  
15 instructed you to do it.

16 A. Right.

17 Q. All right. Your attorney -- or the attorney for  
18 the companies that you work for provided a document in  
19 discovery which shows that on February 18, 2003, a couple of  
20 wires were received by ALC from Brazos. Now, those wires  
21 went into the ALC bank account, the Telatron bank account,  
22 or the Creditron Financial Services bank account?

23 A. From Brazos?

24 Q. Yes.

25 A. Would have gone to Creditron Financial Services.

1 Q. And Creditron Financial Services was also  
2 receiving funds from companies other than Brazos.

3 A. Not by wire.

4 Q. So in 2002 and 2003, every wire that went into the  
5 account of Creditron Financial Services, Inc. came from  
6 Brazos.

7 A. To the best of my recollection, yes.

8 Q. Now, I don't expect you to remember or know the  
9 specific answer to this question, but I'm going to give you  
10 some information and ask you some questions about it, okay?

11 A. Okay.

12 Q. The records that I received show that on  
13 February 18, 2003 -- February 18, 2003, a wire transfer came  
14 from Brazos in the amount of \$487,491.58; so, more than  
15 \$480,000, okay?

16 A. Okay.

17 Q. All right. If you wanted to, would your systems  
18 that you deal with allow you to trace where that money went  
19 after it was received?

20 A. Most likely, yes.

21 Q. And what records would you look at to see where it  
22 went?

23 A. Cashbook.

24 Q. Okay. Do you have any sense for how much money  
25 was wired by Brazos to Creditron Financial Services in 2002,

1 A. Nobody else.

2 Q. What about the authority to wire funds? Could you  
3 authorize the bank to wire funds out of any of those three  
4 accounts?

5 A. Yes.

6 Q. Did Mr. Covatto have that authority?

7 A. No.

8 Q. Who, other than you, had the authority to wire  
9 funds out of those accounts?

10 A. No one.

11 Q. You're the only one?

12 A. I'm the only one.

13 Q. Are you able to tell me if the funds representing  
14 the amounts wired by Brazos, into the Telatron Marketing  
15 Group account, eventually found their way into the bank  
16 account of ALC?

17 A. I don't know.

18 Q. Okay. When a wire was received from Brazos, was  
19 there any other documentation that you saw other than the  
20 fact that the wire was received?

21 A. If there was something that came in the mail a few  
22 days later.

23 Q. And did that come to the financial control group?

24 A. Yes.

25 Q. And what did the financial control group do with

1 that documentation?

2 A. It's filed.

3 Q. And you still have it?

4 A. Yes.

5 Q. If a bill for services from anybody was mailed to  
6 Creditron Financial Services, Inc., would that bill  
7 eventually find its way to the financial control group?

8 A. Yes.

9 Q. Are you familiar with an organizational chart with  
10 regard to the various companies we've discussed today?

11 A. No.

12 Q. Does Telatron Marketing Group, Inc. have any  
13 policy relating to retaining e-mails that are received?

14 A. Not that I'm aware of.

15 Q. Have you ever deleted e-mails that you received?

16 A. Sure. I delete all the time and clean it out.

17 Q. All right. And when you delete them, you don't  
18 keep any other record of the e-mails having been received?

19 A. It's up to my discretion, I guess.

20 Q. You don't know that you don't archive your own  
21 e-mails?

22 A. Some I do, some I don't. Yeah. It depends.

23 Q. When Mr. Covatto would instruct you to disburse  
24 funds out of a particular account, did he do that verbally  
25 sometimes or orally sometimes?



1 A. Yes.

2 Q. Did he sometimes do it by e-mail?

3 A. On a rare occasion.

4 Q. So usually it was orally.

5 A. Orally.

6 Q. Face to face, or on the phone?

7 A. Both.

8 MR. SNYDERMAN: Off the record.

9 (Discussion held off the record.)

10 MR. SNYDERMAN: I would like the record to reflect  
11 that Brian Nelson, one of the officers of the  
12 Plaintiff, flew in from Delaware, came to this  
13 office for the purpose of sitting in on this  
14 deposition, announced his arrival, and that  
15 Mr. Markham had said in Mr. Nelson's presence that  
16 he would let me know that Mr. Nelson had arrived.  
17 And that Mr. Markham did not let me know that  
18 Mr. Nelson had arrived, and when asked why,  
19 Mr. Markham said he forgot.

20 MR. MARKHAM: Well, that's not all I said.

21 MR. SNYDERMAN: What else did you say?

22 MR. MARKHAM: I said, in the heat of the argument,  
23 and getting the phone number, and then dealing  
24 with the Judge, yes, I forgot, and I apologize.

25 BY MR. SNYDERMAN:

1 Q. Does the financial control group of Telatron  
2 Marketing Group keep track of different expenditures by the  
3 type of expenditure? For example, if equipment was repaired  
4 versus a capital investment being made, were those  
5 differentiated on the books of the company?

6 A. Yes.

7 Q. In what way?

8 A. By the use of the chart of accounts.

9 Q. So there's a financial record called -- what was  
10 it again?

11 A. Chart of accounts.

12 Q. Chart of accounts that shows capital investments,  
13 right?

14 A. Right.

15 Q. And does the same accounting system or  
16 documentation exist for Creditron Financial Services, Inc.?

17 A. Yes.

18 Q. And for ALC?

19 A. Yes.

20 Q. And if you wanted to look at the books and records  
21 of the three companies and see what capital investments each  
22 of those companies made in any given year, you'd be able to  
23 do that.

24 A. Yes.

25 Q. Fairly easily?

1 A. Yes.

2 Q. And with respect to all three companies, who had  
3 the authorization to decide to spend money on a capital  
4 investment?

5 A. Mr. Covatto.

6 Q. Anybody else?

7 A. No.

8 Q. Not even Mrs. Covatto, for the company she was  
9 president of?

10 A. No.

11 Q. Were you involved in any way with the preparation  
12 of a document called Answers to Plaintiff's Third Set of  
13 Interrogatories and Request for Production Directed to  
14 Defendant?

15 A. No.

16 Q. So if I were to ask you to describe in detail each  
17 of the capital investments that was made, you'd be able to  
18 do that, right?

19 A. No -- what do you mean?

20 Q. Well, if I asked you, for the year 2002, to  
21 identify each capital investment made by Telatron Marketing  
22 Group, Inc., you'd be able to look at your records and tell  
23 me; wouldn't you?

24 A. Oh, yeah.

25 Q. And the same for each of the other two companies,

1 right?

2 A. Right.

3 Q. And you'd know the exact date it was made.

4 A. Yes.

5 Q. And would it be true that if a capital investment  
6 was made on behalf of, say, Creditron Financial Services,  
7 Inc., but it was initially paid for out of the bank account  
8 of Telatron Marketing Group, that there would have been a  
9 record of that like the other records?

10 A. Yes.

11 Q. At the deposition of Joyce Covatto, I asked her a  
12 series of questions. I asked a question of Mrs. Covatto  
13 relating to the subject of records that would show that a  
14 particular employee worked a certain number of hours on any  
15 given day.

16 A. Okay.

17 Q. And I said, "How do we know that they sat at their  
18 desk with a phone and actually worked?"

19 Answer: "Well, because you would have production  
20 reports that would show that Joyce Covatto is -- worked  
21 eight hours. She had X number of sales, X number of  
22 refusals, X number of -- I mean, it's all part of the  
23 production reports."

24 Are you familiar with the production reports that  
25 she's referring to?

1 how much money had been wired from Brazos in any given  
2 month, would she have been able to do that?

3 A. I don't know if this is on her system or not.

4 Q. So you don't know whether she -- I mean, I know  
5 you said that she didn't have the authority -- or the  
6 ability today to go on line and see if a wire had been  
7 received today, correct?

8 A. Right.

9 Q. But after your financial control department  
10 created its documents and records and could see all the  
11 wires that came in, at any given time in the past, did  
12 Mrs. Covatto have the ability on her system at her desk to  
13 look at the computer and the records and see what wires had  
14 been received?

15 A. No. I don't -- I don't know.

16 Q. Do you recall ever sending e-mails to Mrs. Covatto  
17 informing her of wires that had been received from Brazos?

18 A. Yes.

19 Q. And did you do that at Mr. Covatto's direction,  
20 Mrs. Covatto's direction, on your own? How did that happen?

21 A. Both.

22 Q. And did you do that every time a wire was received  
23 from Brazos; you would e-mail and let her know?

24 A. Yes.

25 Q. And if two wires were received from Brazos on the

1 same day, did you send her two e-mails or one e-mail?

2 A. It depends on when they came in.

3 Q. Okay. Did Mrs. Covatto ever tell you why she  
4 wanted you to send her notice that wires had come in from  
5 Brazos?

6 A. Just to be informed.

7 Q. And how soon after a wire came in would you do  
8 that, within 24 hours?

9 A. Oh, yes, same day.

10 Q. In your position with Telatron Marketing Group,  
11 have you prepared balance sheets?

12 A. At times.

13 Q. Have you prepared tax returns?

14 A. Yes.

15 Q. For any company other than Telatron Marketing  
16 Group, Inc.?

17 A. Creditron Financial Services.

18 Q. And am I right that ALC has never filed its own  
19 tax return?

20 A. Right.

21 Q. I asked you questions about who was employed, I  
22 asked you questions about officers and directors; do you  
23 know who owns Creditron Financial Services, Inc.?

24 A. Owns? No.

25 Q. Do you know who owns Telatron Marketing Group,

1 A. I believe so.

2 Q. And the same holds true for Creditron Financial  
3 Services, Inc.?

4 A. Yes.

5 MR. SNYDERMAN: Give me just a couple of minutes  
6 to go over this with my client, and we may be  
7 finished. Are you going to be very long after I'm  
8 finished, Craig?

9 MR. MARKHAM: No.

10 MR. SNYDERMAN: Okay. I'll be right back.

11 (Recess taken from 6:07 p.m. to 6:11 p.m.)

12 BY MR. SNYDERMAN:

13 Q. All right. I'm just about done.

14 A. Promise?

15 Q. I promise. Would you describe for me, please, the  
16 kind of reports that the financial control department  
17 generates on a regular basis; for example, income  
18 statements. I mean, what reports are created? Or is it  
19 just all the data is in there and you only produce something  
20 when somebody asks?

21 A. Well, pretty much it's all in there. And it is  
22 generated on a monthly basis, you'd get the monthly  
23 financial statements.

24 Q. And are you the one who produces them?

25 A. I used to be at one time. Now, it's more under

1 Mark's control.

2 Q. For 2002, 2003, and 2004 --

3 A. Mark and I shared the responsibilities.

4 Q. And is it fair to say that you retained those  
5 reports electronically and on paper?

6 A. Yes -- I'd say yes.

7 Q. And are accounts receivable records kept for each  
8 company separately?

9 A. Yes.

10 Q. What about accounts payable?

11 A. Yes.

12 Q. In 2002, 2003, and 2004, were you ever called upon  
13 to present a report of these financial records that you  
14 kept, or did you just hand them over?

15 A. To who? What do you mean?

16 Q. Like, for example, I belong to a charitable  
17 organization, I'm the president of it actually, and once a  
18 month we have a board meeting. And the treasurer of our  
19 organization makes a treasurer's report, so he lets all of  
20 us in charge know how much money we have, and where it came  
21 from, and how much we've spent, and that sort of thing.

22 So, in that sense, have you ever face to face made  
23 a presentation of your financial records or reports?

24 A. No.

25 Q. I'm going to use a phrase and see if you're